

Dear Senators BURTENSHAW, Bayer, Nelson, and
Representatives KAUFFMAN, Andrus, Toone:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Idaho Beef Council:

IDAPA 51.01.01 - Rules of the Idaho Beef Council - Notice of Omnibus Rulemaking (Fee Rule) -
Proposed Rule (Docket No. 51-0101-2100F).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/12/2021. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/10/2021.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: October 26, 2021

SUBJECT: Idaho Beef Council

IDAPA 51.01.01 - Rules of the Idaho Beef Council - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 51-0101-2100F)

Summary and Stated Reasons for the Rule

The Idaho Beef Council submits notice of proposed rule at IDAPA 51.01.01 - Rules of the Idaho Beef Council. According to the council, the rulemaking publishes the rule chapter previously submitted to and reviewed by the Legislature.

Negotiated Rulemaking/Fiscal Impact

The council states that negotiated rulemaking was not conducted "because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare." The council notes that there is no fee or charge imposed or increased beyond what was previously submitted to and reviewed by the Legislature in prior rules. The council states that prior rules assessments include \$1.50 per head of cattle at the time the cattle are sold which includes one dollar required by the National Beef Promotion and Research Act and fifty cents authorized by section 25-2907, Idaho Code. No fiscal impact is anticipated.

Statutory Authority

The rulemaking appears to be authorized pursuant to section 25-2906, Idaho Code.

cc: Beef Council, Idaho
TK Kuwahara

*** PLEASE NOTE ***

Paul Headlee, Deputy Director Kristin Ford, Manager Keith Bybee, Manager April Renfro, Manager Glenn Harris, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 51 – IDAHO BEEF COUNCIL

DOCKET NO. 51-0101-2100F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-2906 (9), Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rulemaking publishes the following rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 51, rules of the Idaho Beef Council.

IDAPA 51

- IDAPA 51.01.01, *Rules of the Idaho Beef Council.*

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules. Prior rules Assessments include \$1.50 per head of cattle at the time the cattle are sold. This includes one dollar (\$1.00) required by the National Beef Promotion and Research Act, and fifty cents (\$.50) authorized by Section 25-2907(1), Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rule attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact T.K. Kuwahara at 208-376-6004.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 20, 2021.

T.K. Kuwahara
Chief Executive Officer
Idaho Beef Council
1951 W Frederic Lane
Boise, ID 83705
Phone: 208-376-6004
Fax: 208-376-6002

IDAPA 51 – IDAHO BEEF COUNCIL

51.01.01 – IDAHO BEEF COUNCIL RULES

000. LEGAL AUTHORITY.

The Idaho Beef Council is authorized under Section 25-2906(9), Idaho Code, to adopt rules concerning the administration of the Beef Promotion Act. ()

001. SCOPE.

These rules provide for a coordinated federal and state program of beef promotion and research funded by a one dollar and fifty cents (\$1.50) assessment on each head of cattle marketed in the state of Idaho. ()

002. ADMINISTRATIVE APPEALS.

All contested cases are governed by the procedures set forth by the National Beef Promotion and Research Order, 7 CFR 1260, issued by the United States Department of Agriculture. All written communications and documents that are intended to be part of an official record for a decision in a contested case need to be filed with the Chief Executive Officer of the Idaho Beef Council. All such documents are considered filed when the original and one (1) copy of each document is received by the Chief Executive Officer of the Idaho Beef Council. ()

003. INCORPORATION BY REFERENCE.

The Idaho Beef Council operates under the rules and regulations of the National Beef Promotion and Research Order, 7 CFR 1260 (Federal Register July 18, 1986). ()

004. -- 099. (RESERVED)

100. FUNDING.

01. Assessments. ()

a. Each producer shall pay an assessment of one dollar and fifty cents (\$1.50) per head of cattle at the time the cattle are sold. This assessment consists of: ()

i. One dollar (\$1) required by the National Beef Promotion and Research Order, and ()

ii. Fifty cents (\$.50) authorized by Section 25-2907(1), Idaho Code. ()

b. Producers selling or marketing cattle in interstate commerce will pay only one (1) assessment per individual sale of cattle. When cattle leave Idaho for the purpose of sale or slaughter, the assessment will be made at the time of brand inspection. When cattle leave Idaho for feeding or pasture where no change of ownership occurs, the promotion assessment will not be made. ()

c. When cattle enter Idaho for sale or slaughter, the assessment will be made only if the assessment has not been paid when the cattle left their state of origin. These cattle will be assessed by the Idaho Brand Inspector, but they will be considered cattle from their state of origin. All assessments will be remitted to the Idaho Beef Council, with these cattle indicated by their state of origin. The Idaho Beef Council will pay to the originating state the assessments due them in a timely manner after payment has been received from the State Brand Inspector. ()

d. The assessment implemented by this rule does not apply to the seller of cattle if the seller certifies that the seller's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee or other service fee; or if the seller certifies that he acquired ownership of cattle to facilitate the transfer of ownership of such cattle to a third party, establishes that such cattle are being resold not later than ten (10) days from the date on which the person acquired ownership and certifies that the assessment was collected from the seller when the person acquired ownership. A completed certificate of "non-producer status" must be given to the brand inspector or his agent at the time of inspection. If no certificate is produced the assessment will be levied. ()

02. **Collection.** The State Brand Inspector shall collect the assessment in addition to and at the same time and manner as the fee charged for state brand inspection. The assessment will be submitted each month to the Beef Council, less collection fee. In addition, the State Brand Inspector will submit monthly, a written accounting of total number of head marketed, number of cattle assessed and not assessed (along with copies of the appropriate non-producer exemption forms), total collections, and state of origin documentation. ()

03. Refunds. ()

a. Producers/owners of cattle from whom an assessment is collected has the right to request a refund of not more than fifty cents (\$.50) per head (Section 25-2907, Idaho Code). Refund requests must be mailed to the Idaho Beef Council within ninety (90) calendar days of the assessment and include the: ()

i. Name and address of the producer; ()

ii. Name and address of the entity collecting the assessment (brand inspector or livestock market); ()

iii. Number of head on which a refund is requested; ()

iv. Total amount of refund requested; ()

v. Date of assessment; ()

vi. Producer's signature; and ()

vii. Proof of payment of the assessment. ()

b. The Idaho Beef Council will process the requested refunds on a calendar quarterly basis. Any refund request that is received by the Idaho Beef Council less than fifteen (15) days from the end of the calendar quarter shall be paid at the end of the next quarter. ()

101. -- 199. (RESERVED)

200. DISBURSEMENTS.

01. Collection Fee, Brand Inspector. The Idaho Beef Council will reimburse the State Brand Inspector for the reasonable and necessary expenses incurred in the collection of the assessment in an amount determined by the Beef Council and the State Brand Inspector, not to exceed five percent (5%) of gross collections. ()

02. National Beef Promotion and Research Board. The Idaho Beef Council will forward fifty cents (\$.50) credit per head of cattle assessed to the Cattlemen's Beef Promotion and Research Board. ()

03. Idaho Beef Council. Assessment funds remaining after payment of collection fee and disbursement to the National Beef Promotion and Research Board will be retained by the Idaho Beef Council and used to fund its activities and operations. ()

201. -- 299. (RESERVED)

300. PERSONNEL.

There will be a full time administrator whose title will be "Chief Executive Officer." Additional staff will be hired based upon Idaho Beef Council program needs and budget. ()

301. -- 999. (RESERVED)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho Beef Council

Agency Contact: T.K. Kuwahara **Phone:** 208-376-6004

Date: September 8, 2021

IDAPA, Chapter and Title Number and Chapter Name:

[IDAPA 51.01.01](#)

Fee Rule Status: X **Proposed** _____ **Temporary**

Rulemaking Docket Number: 51-0101-2100F

STATEMENT OF ECONOMIC IMPACT:

This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules. Prior rules Assessments include \$1.50 per head of cattle at the time the cattle are sold. This includes one dollar (\$1.00) required by the National Beef Promotion and Research Act, and fifty cents (\$.50) authorized by Section 25-2907(1), Idaho Code.